

ESTTA Tracking number: **ESTTA286079**

Filing date: **05/27/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Towson University
Granted to Date of previous extension	05/27/2009
Address	8000 York Road Towson, MD 21252 UNITED STATES

Attorney information	Alicia Grahn Jones KILPATRICK STOCKTON LLP 1100 Peachtree Street Suite 2800 Atlanta, GA 30309 UNITED STATES tmadmin@kilpatrickstockton.com, chenn@kilpatrickstockton.com, aljones@kilpatrickstockton.com, rchou@kilpatrickstockton.com Phone:404-815-6500
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### Applicant Information

Application No	77489151	Publication date	01/27/2009
Opposition Filing Date	05/27/2009	Opposition Period Ends	05/27/2009
Applicant	Grant Brawith 2191 Turtle Dove Ct Lodi, CA 95240 UNITED STATES		

### Goods/Services Affected by Opposition


Class 041. First Use: 2008/05/16 First Use In Commerce: 2008/05/16  
All goods and services in the class are opposed, namely: Amateur youth sports services, namely, organizing, providing and managing youth sports activities

### Grounds for Opposition

False suggestion of a connection	Trademark Act section 2(a)
Priority and likelihood of confusion	Trademark Act section 2(d)

### Mark Cited by Opposer as Basis for Opposition

U.S. Application No.	77635856	Application Date	12/18/2008
Registration Date	NONE	Foreign Priority Date	NONE

Word Mark	NONE
Design Mark	
Description of Mark	The mark consists of design of a head of a tiger.
Goods/Services	Class 025. First use: First Use: 2002/07/00 First Use In Commerce: 2002/07/00 Sweatshirts, sweatpants, shorts, ties, caps, socks, t-shirts, and polo shirts Class 041. First use: First Use: 2002/07/00 First Use In Commerce: 2002/07/00 Educational and entertainment services, namely, providing courses of instruction at the university level; educational research; arranging and conducting athletic competitions, events, tournaments, and exhibitions

Attachments	77635856#TMSN.jpeg ( 1 page )( bytes ) CLC - Towson - NOO - Tiger Head Design.pdf ( 11 pages )(85535 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/agj/
Name	Alicia Grahm Jones
Date	05/27/2009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TOWSON UNIVERSITY,	)	
	)	
	)	
	)	
Opposer,	)	
v.	)	In the matter of Application
	)	Serial No. 77/489,151
	)	Mark: Tiger Head Design
	)	
GRANT BRAWITH D/B/A TOKAY JR	)	
TIGERS YOUTH FOOTBALL &	)	
CHEER,	)	
	)	
Applicant.	)	

**NOTICE OF OPPOSITION**

Opposer Towson University, a Maryland educational institution, located at 8000 York Road, Towson, Maryland 21252 (“Opposer” or the “University”), believes it will be damaged by the registration of the tiger head design in Application Serial No. 77/489,151 and opposes the same pursuant to 15 U.S.C. §§ 1063 and 37 C.F.R. §§ 2.101, 2.104(a). The grounds for this opposition are as follows:

1. On information and belief, on June 2, 2008, Applicant Grant Brawith d/b/a Tokay JR Tigers Youth Football & Cheer (“Applicant”) filed a use-based application to register the tiger head design in Application Serial No. 77/489,151 (“Applicant’s Mark”), depicted on the top of the next page, for use in connection with “amateur youth sports services, namely, organizing, providing and managing youth sports activities” in International Class 41, claiming a date of first use of May 16, 2008.



2. The application for Applicant's Mark was first published for opposition in the *Official Gazette* dated January 27, 2009. Opposer timely filed an extension of time to oppose this application and is allowed until May 27, 2009 to file this Notice of Opposition.

3. Opposer is a public university that offers undergraduate and graduate programs. In the fall of 2008, the University enrolled 21,111 students. In 2009, the University ranked within the top 10 "Best Colleges" for master's degree programs among public universities in the North by *U.S. News & World Report*.

4. The University's athletic teams are known as the TOWSON TIGERS. Drawing upon the University's athletic identity, the University's mascot is a tiger (the "Tiger Head Design Mark"), which is depicted below.



5. The University is a member of the Colonial Athletic Association, which participates in the NCAA Division I. The University has eighteen varsity athletic teams, which include basketball, football, baseball, dance, lacrosse, and soccer teams. The University's dance

team has enjoyed tremendous success winning the National Dance Association College Nationals for eleven consecutive years, from 1999-2009. Similarly, the University's lacrosse team has appeared frequently in NCAA tournaments reaching the finals in 1991 and the Final Four in 2001. As a result of the University's athletic successes, the University's athletic teams have been featured on television broadcasts and in print and online media for decades.

6. Since at least as early as 1962, Opposer has used the TOWSON TIGERS mark in connection with a broad range of goods and services. Opposer has used its TOWSON TIGERS mark continuously since the date of first use and has not abandoned it. The University's athletic department, and its many teams and organizations use the TOWSON TIGERS mark, which is the University's nickname and athletic identity.

7. For decades (and well before Applicant adopted Applicant's Mark), Opposer has licensed its TOWSON TIGERS mark in connection with a variety of products and services. Opposer's licensed products bearing the TOWSON TIGERS mark are sold across the United States.

8. Since at least as early as 2002, Opposer has used the Tiger Head Design Mark in connection with a broad range of goods and services. Opposer has used the Tiger Head Design Mark continuously since the date of first use and has not abandoned it. The University's athletic department, and its many teams and organizations use the Tiger Head Design Mark, which is the University's mascot.

9. For decades (and well before Applicant adopted Applicant's Mark), Opposer has licensed the Tiger Head Design Mark in connection with a variety of products and services. Opposer's licensed products bearing the Tiger Head Design Mark are sold across the United States.

10. Opposer owns a pending use-based application to register the Tiger Head Design Mark (Serial No. 77/635,856) for “sweatshirts, sweatpants, shorts, ties, caps, socks, t-shirts, and polo shirts” in International Class 25; and “educational and entertainment services, namely, providing courses of instruction at the university level; educational research; arranging and conducting athletic competitions, events, tournaments, and exhibitions” in International Class 41, claiming a date of first use of July 2002. A true and correct copy of the USPTO TESS record for Opposer’s application to register the Tiger Head Design Mark (Serial No. 77/635,856) is attached as **Exhibit 1**.

11. Opposer’s trademarks referenced in paragraphs 3-10 are collectively referred to as “Opposer’s Marks.”

12. As a result of Opposer’s longstanding and extensive use, Opposer’s Marks are symbolic of the extensive goodwill and consumer recognition established by Opposer. Opposer’s Marks have attained a high degree of recognition and distinctiveness throughout the United States, and particularly in the eastern United States, in connection with entertainment services, educational services, apparel, and other goods and services commonly associated with a university and its athletic department. By virtue of Opposer’s expenditure of substantial amounts of time, effort, and money in advertising and promoting its goods and services, Opposer’s Marks have come to identify the University’s athletics and other goods and services. Purchasers and prospective purchasers, as well as other members of the public, are familiar with and identify Opposer’s Marks, and understand and expect that a wide variety of goods and services offered under Opposer’s Marks are affiliated, sponsored, or licensed by the University. Indeed, Opposer’s Marks have become well-known for the University’s goods and services, particularly in the eastern United States.

13. Opposer will be damaged by the registration of Applicant's Mark because Applicant's Mark and its associated services so resemble Opposer's Marks and the associated goods and services as to be likely to cause confusion, mistake, and deception. Indeed, Applicant's Mark is a tiger head design nearly identical to Opposer's Tiger Head Design Mark. In addition, the services offered by Applicant under Applicant's Mark are similar to the services offered by Opposer under Opposer's Marks. Finally, prior to filing the application for Applicant's Mark, Applicant had agreed to cease use of and refrain from using Opposer's Tiger Head Design Mark or any confusingly similar variation thereof. Despite this agreement, Applicant filed the application for Applicant's Mark, which is nearly identical to Opposer's Tiger Head Design Mark.

14. Persons familiar with Opposer's Marks are likely to believe erroneously that Applicant's services are offered by Opposer, or are authorized, licensed, endorsed, or sponsored by Opposer, and registration of Applicant's Mark on the Principal Register will be inconsistent with Opposer's prior rights in Opposer's Marks.

15. Applicant's registration of Applicant's Mark also falsely suggests a connection with Opposer, in violation of Section 2(a) of the Lanham Act, 15 U.S.C. § 1052(a).

16. The \$300.00 filing fee is enclosed. The Commissioner is authorized to debit the deposit account of Kilpatrick Stockton LLP (Deposit Account No. 11-0860) for any deficiency in the required fee.

17. WHEREFORE, Opposer requests that Application Serial No. 77/489,151 be refused registration and this Notice of Opposition be sustained in its favor.

Respectfully submitted,

/s/ Alicia Grahm Jones

R. Charles Henn Jr.

Alicia Grahm Jones

Rosaleen H. Chou

KILPATRICK STOCKTON LLP

1100 Peachtree Street

Suite 2800

Atlanta, Georgia 30309-4530

(404) 815-6500

*Attorneys for Opposer*



**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing NOTICE OF OPPOSITION was served on Applicant on May 27, 2009 via first class mail to:

Grant Brawith  
2191 Turtledove Court  
Lodi, CA 95240-7863

/s/ Alicia Grahm Jones  
Alicia Grahm Jones  
*Attorney for Opposer*

**CERTIFICATE OF TRANSMITTAL**

I hereby certify that a true copy of the foregoing NOTICE OF OPPOSITION is being filed electronically with the TTAB via ESTTA on this day, May 27, 2009.

/s/ Alicia Grahm Jones  
Alicia Grahm Jones  
*Attorney for Opposer*

# EXHIBIT 1

Thank you for your request. Here are the latest results from the [TARR web server](#).

This page was generated by the TARR system on 2009-05-27 13:44:24 ET

Serial Number: 77635856 [Assignment Information](#) [Trademark Document Retrieval](#)

Registration Number: (NOT AVAILABLE)

Mark



Standard Character claim: No

Current Status: [Application has been published for opposition.](#)

Date of Status: [2009-04-21](#)

Filing Date: [2008-12-18](#)

The Information will be/ was published in the Official Gazette on [2009-04-21](#)

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: [Principal](#)

Law Office Assigned: [LAW OFFICE 116](#)

Attorney Assigned:  
[SWAIN MICHELE LYNN](#)

Current Location: [650 -Publication And Issue Section](#)

Date In Location: [2009-03-17](#)

## LAST APPLICANT(S)/ OWNER(S) OF RECORD

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1. [Towson University](#)

**Address:**

[Towson University](#)  
[8000 York Road](#)  
[Towson, MD 21252](#)  
[United States](#)

**Legal Entity Type:** [state university](#)

**State or Country Where Organized:** [Maryland](#)

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## GOODS AND/ OR SERVICES

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**International Class:** [025](#)

**Class Status:** [Active](#)

[Sweatshirts, sweatpants, shorts, ties, caps, socks, t-shirts, and polo shirts](#)

**Basis:** [1\(a\)](#)

**First Use Date:** [2002-07-00](#)

**First Use in Commerce Date:** [2002-07-00](#)

**International Class:** [041](#)

**Class Status:** [Active](#)

[Educational and entertainment services, namely, providing courses of instruction at the university level; educational research; arranging and conducting athletic competitions, events, tournaments, and exhibitions](#)

**Basis:** [1\(a\)](#)

**First Use Date:** [2002-07-00](#)

**First Use in Commerce Date:** [2002-07-00](#)

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## ADDITIONAL INFORMATION

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**Color(s) Claimed:** [Color is not claimed as a feature of the mark.](#)

**Description of Mark:** [The mark consists of design of a head of a tiger.](#)

**Design Search Code(s):**

[03.01.03](#) - [Cats, tigers or other large cats; Cheetahs; Jaguars; Leopard; Lynx; Ocelots; Panther; Panthers; Puma; Tigers](#)

[03.01.16](#) - [Heads of cats, dogs, wolves, foxes, bears, lions, tigers](#)

[03.01.24](#) - [Stylized cats, dogs, wolves, foxes, bears, lions, tigers](#)

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## MADRID PROTOCOL INFORMATION

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(NOT AVAILABLE)

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## PROSECUTION HISTORY

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**NOTE:** To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

[2009-04-21 - Published for opposition](#)

[2009-04-01 - Notice of publication](#)

[2009-03-17 - Law Office Publication Review Completed](#)

[2009-03-16 - Assigned To LIE](#)

[2009-03-16 - Approved for Pub - Principal Register \(Initial exam\)](#)

[2009-03-13 - Assigned To Examiner](#)

[2008-12-23 - Notice Of Design Search Code Mailed](#)

[2008-12-22 - New Application Entered In Tram](#)

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## ATTORNEY/ CORRESPONDENT INFORMATION

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### Attorney of Record

[William H. Brewster](#)

### Correspondent

[WILLIAM H. BREWSTER](#)

[KILPATRICK STOCKTON LLP](#)

[SUITE 2800](#)

[1100 PEACHTREE STREET](#)

[ATLANTA, GA 30309](#)

[Phone Number: 404-815-6500](#)

[Fax Number: 404-815-6555](#)

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